

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Tuesday, 20 December 2016 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Meirick Davies, Barry Mellor, Merfyn Parry, Pete Prendergast, David Simmons, Cefyn Williams (Chair) and Huw Williams (Vice-Chair)

ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Enforcement Officers (TB & LJ) and Committee Administrators (KEJ & SJ)

1 APOLOGIES

Councillors Stuart Davies and Hugh Irving

2 DECLARATION OF INTERESTS

Councillor Barry Mellor – Personal Interest – Agenda Item No. 6

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12, 13 and 14 of Part 4 of Schedule 12A of the Act.

4 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 509302

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 509302 to hold a licence to drive hackney carriage and private hire vehicles following accrual of 9 penalty points on his DVLA driving licence during the period December 2015 to August 2016 relating to 2 incidents of failing to comply with a traffic light signal and 1 speeding incident;
- (ii) officers having not been in a position to grant the Driver's renewal application in light of the motoring convictions as disclosed;

- (iii) the Council's current policy with regard to the relevance of convictions, and
- (iv) the Driver having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Driver confirmed that he had received the committee report and procedures.

The Public Protection Business Manager (IM) presented the report and detailed the facts of the case.

The Driver explained the circumstances surrounding each of the motoring offences. In mitigation for the failure to comply with a traffic light signal he referred to outside influences and potential fault with the traffic light signal. In respect of the speeding offence he had been mistaken with regard to the speed limit. The Driver provided assurances regarding his driving ability advising that prior to those incidents he had held a clean driving licence for eight years. In responding to questions he elaborated further on each incident and confirmed he had not been carrying fare paying passengers during the time the offences had occurred.

In making a final statement the Driver provided assurances with regard to his future conduct advising that he could provide customer references in that regard.

At this juncture the committee adjourned to consider the application and it was –

RESOLVED that the renewal application for a hackney carriage and private hire vehicle driver's licence from Driver No. 509302 be granted with a formal warning issued as to future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members carefully considered the facts of the case and mitigation put forward by the Driver. The committee had found the Driver to be open and honest in his answers to questions and found his version of events to be credible and acceptable with a series of unfortunate events leading to the accumulation of penalty points. Members also took confidence from the Driver's assurance with regard to his future conduct and felt that he was a fit and proper person to hold a licence. In light of the accumulation of points the committee believed a warning as to future conduct would be appropriate in this case.

The committee's decision and reasons therefore were conveyed to the Driver.

5 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 509827

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 509827 to hold a licence to drive hackney carriage and private hire vehicles following accrual of 12 penalty points on his DVLA

- driving licence spanning the period July 2013 to April 2016 relating to using an uninsured vehicle (6 points) and 2 speeding offences (total 6 points);
- (ii) officers having not been in a position to grant the Driver's renewal application in light of the motoring convictions disclosed following a routine check on his DVLA driving licence which had also revealed a conviction not declared by the Driver on his renewal application relating to the use of an uninsured vehicle;
 - (iii) the Council's policy with regard to the relevance of convictions, and
 - (iv) the Driver having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Driver confirmed that he had received the committee report and procedures.

The Public Protection and Business Manager (IM) presented the report and detailed the facts of the case.

In presenting his case the Driver explained that he had six penalty points remaining on his licence for two speeding offences. The six penalty points imposed on his licence in July 2013 for driving an unlicensed vehicle had since been spent. The Driver had appeared before the committee upon first application to explain the circumstances surrounding that spent conviction and his licence had subsequently been granted. He had been under the misapprehension that those details would be kept on file and whilst he had mentioned the offence of driving an unlicensed vehicle when submitting his renewal application he had not declared it on his renewal form. The Driver also explained the circumstances surrounding the speeding offences and confirmed he was carrying a fare paying passenger at the time of the second speeding offence. Finally the Driver produced an insurance document validating his 7 years no claims bonus. In his final statement the Driver submitted that he was of good character, a safe and responsible driver and a hard working family man.

At this juncture the committee adjourned to consider the application.

Members sought further clarification regarding the process for renewal applications as it related in this case and it was confirmed that whilst the Driver had declared the now spent conviction upon first application (which was brought before the committee) he had failed to declare that conviction on his renewal form despite it clearly stating that applicants must declare motoring convictions for the last 5 years. Under the totting up procedure the conviction was considered spent after 3 years, however it remained on his DVLA driving licence for a total of 4 years.

During deliberations there were mixed views regarding the most suitable sanction in this case and members proposed both suspension and formal warning. Upon being put to the vote it was –

RESOLVED that the renewal application for a hackney carriage and private hire vehicle driver's licence from Driver No. 509302 be granted but that the licence be suspended for a period of one month.

The reasons for the Licensing Committee's decision were as follows –

Members carefully considered the facts of the case and explanation provided by the Driver in mitigation. The committee raised serious concerns that the Driver had obtained two further speeding convictions in addition to the major traffic offence within a three year period and had failed to declare all of his motoring convictions on his renewal application, despite clear instruction to do so, which did not reflect well on his character. In considering the case members were satisfied that the Driver was a fit and proper person to hold a licence and agreed to grant the renewal application. However there had been mixed views when considering the sanction in this case but following a vote it was resolved to suspend the licence for one month.

The committee's decision and reasons therefore were conveyed to the Driver.

6 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0269/TXJDR

[Councillor Barry Mellor declared a personal interest because he knew two of the witnesses in this case and he left the meeting during consideration of this item.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 15/0269/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following a complaint of road rage;
- (ii) details of the complaint having been provided (a summary of facts together with associated witness statements and documentation having been attached to the report);
- (iii) the Driver having previously appeared before the Licensing Committee on 10 June 2015 and the outcome of that case, and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting with his Legal Representative and confirmed receipt of the report and committee procedures.

The Enforcement Officer (TB) outlined the case as detailed within the report.

The Legal Representative advised that the Driver did not dispute the majority of the allegations in the witness statements and had accepted his conduct during interview. He detailed the circumstances leading up to the incident which had involved the manoeuvre of a tanker at a junction. Following the manoeuvre the Driver had dropped off his passengers and had gone back to see the tanker driver to raise the manner of his driving. However the tanker driver refused to speak to him and walked away and it was at that point he swore at him. There had been no intention to argue but the manner in which the tanker driver reacted had made him

lose his temper. The Driver admitted that he had acted inappropriately and had offered a handshake three times. He fully acknowledged his behaviour was unacceptable and the seriousness of the situation and was very remorseful. Whilst the Driver had been before the committee in June 2015 the nature of the case had been different and the Driver had also accepted his guilt on that occasion. Examples as to the Driver's good character were provided and members were advised that he had been previously licensed outside of the area and had held an unblemished record. Details of the Driver's personal circumstances were also given which may have affected his reaction to a certain degree and it was argued that to lose his licence would cause financial hardship.

Members took the opportunity to question the Driver on his interview statement and his version of events and queried what he expected to gain from his actions. The Driver advised that he had been unprepared for the interview as he had not been advised of the nature of the complaint but when pressed he confirmed he had an idea about what it would have been about. He elaborated upon the incident from his perspective advising that he felt bullied by the tanker driver and wanted to question him on the manner of his driving but he had been provoked and lost his temper and in hindsight admitted that he would not take that action again. He disputed that he had been ushered off the premises and had tried to apologise at the time. As a licensed driver he regularly witnessed numerous traffic incidents without retaliation and submitted that this case was an isolated incident which would not be repeated in the future.

In his final statement the Legal Representative reiterated that the Driver did not intend an argument when he went back to see the tanker driver and he was genuinely remorseful about what had occurred. The Driver had learned from the experience and would act differently if faced with similar circumstances in the future. It was submitted that there had been no other incidents of this nature and the Driver was not prone to road rage and he was willing to personally apologise to the tanker driver concerned. At no time had the Driver sought to dispute his involvement about what happened but had regretted his actions and acknowledged that his behaviour was unacceptable. When considering sanctions the committee was asked not to revoke the licence but if members were minded to suspend the licence then it should be proportionate.

The committee adjourned to consider the case and it was –

RESOLVED that the hackney carriage and private hire vehicle driver's licence issued to Driver No. 15/0269/TXJDR be revoked on public safety grounds with immediate effect.

The reasons for the Licensing Committee's decision were as follows –

Members carefully considered the evidence presented in this case together with the explanation provided by the Driver in mitigation and in response to questions. Whilst members felt the Driver had accepted and regretted his wrongdoing they did not consider his version of events to be entirely credible and believed he had gone to see the tanker driver to confront him. The Driver's manner and demeanor in responding to questions together with the incident itself led the committee to believe

that he struggled to control his anger and questioned his train of thought given his rationale in deliberately going back to confront the tanker driver after the road incident was over instead of considering another course of action such as reporting the incident. The committee had not been persuaded that it was an isolated incident and could take no assurance that the incident would not be repeated in the future in similar circumstances which placed members of the public at risk. The Driver's integrity was also in question given his initial claims that he had no idea about what his interview had been about. The committee's overriding consideration was for public safety and they had a duty to protect the travelling public from a Driver who clearly exhibited a capacity to lose his temper, return to the scene of an incident which was over, and use foul and abusive language and had to be asked to leave the premises. Members also noted that the Driver had disregarded a previous warning as to his future conduct given a mere fifteen months previously and his conduct reflected badly on the trade and the council. Consequently the committee felt that the Driver was not fit and proper and did not possess the requisite characteristics to be a licensed driver and it was resolved to revoke the licence with immediate effect on the grounds of public safety. The committee disregarded the effect revocation or suspension would have on his livelihood and family circumstances since it was not a relevant consideration when looking at his character and fitness as a driver.

The committee's decision and reasons therefore were conveyed to the Driver and he was advised as to a right of appeal to the Magistrates Court within 21 days.

The meeting concluded at 11.45 a.m.